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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT
DIVISION TWO

THE PEOPLE,

Plaintiff and Respondent,

v.

DANNY REUBEN KERBS,

Defendant and Appellant.

A095109

(Sonoma County
Super. Ct. No. 25640)

Danny Reuben Kerbs appeals from the extension of his civil commitment, pursuant to Penal Code section 1026.5, following the completion of his commitment based on a finding of not guilty by reason of insanity with reference to a single count of felony assault (further references are to the Penal Code unless otherwise specified). Appellant's court appointed counsel has briefed no issues and asks this court to review the record pursuant to *People v. Wende* (1979) 25 Cal.3d 436.

Appellant was originally charged in a four count information which alleged that he had threatened death or great bodily injury (§ 422, count I); assault with a deadly weapon (§ 245, subd. (a)(1), count II); drawing and exhibiting a deadly weapon in a rude, angry, and threatening manner (§ 417, subd. (a)(1), count III); and petty theft, a misdemeanor (§ 484, subd. (a), count IV).

Appellant entered a plea of not guilty by reason of insanity (NGI) and two psychiatrists were appointed to examine him pursuant to section 1027. Trial by jury was waived on the issue of appellant's sanity and the matter was submitted.

Appellant entered a plea of no contest to the charge that he violated section 245, subdivision (a)(1) by committing assault with a deadly weapon and the court found him

to be not guilty by reason of insanity. The prosecution moved to dismiss the remaining counts and appellant was committed to the state hospital in Napa for a maximum term of four years.

Approximately two years later, the prosecution filed a petition to extend appellant's commitment pursuant to section 1026.5, subdivision (b). Appellant also waived his right to a jury trial on this occasion and the court conducted a trial which included testimony from various experts who had been involved in appellant's treatment at the state hospital. The court found that appellant was still a danger to the community and extended his commitment for not more than two years.

When reviewing the extension of a commitment under section 1026.5, we apply the same test as we do when reviewing the sufficiency of the evidence to support a criminal conviction. (*People v. Overly* (1985) 171 Cal.App.3d 203, 207.) The evidence is to be construed in the light most favorable to the verdict. (*People v. Johnson* (1980) 26 Cal.3d 557, 576.)

Reviewing the evidence that was presented in this case, primarily through the examination and cross-examination of psychiatric witnesses, we conclude that there was ample evidence to support the trial court's conclusion that appellant continued to represent a danger of physical harm to himself and others. Accordingly, we must affirm the trial court's judgment.

We note that appellant was represented by counsel throughout the proceedings and that his waivers of the right to a jury were constitutionally sound. We find no other issues which require further briefing and the judgment is affirmed.

Lambden, J.

We concur:

Kline, P. J.

Haerle, J.